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AUTHORITY: 16 U.S.C. 1801 *et seq.*

SOURCE: 61 FR 34968, July 3, 1996, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes for part 648 appear at 62 FR 14651, Mar. 27, 1997.

## 50 CFR Ch. VI (10–1–98 Edition)

### Subpart A—General Provisions

#### § 648.1 Purpose and scope.

(a) This part implements the fishery management plans (FMP) for the Atlantic mackerel, squid, and butterfish fisheries (Atlantic Mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Atlantic Sea Scallop FMP (Scallop FMP)); the Atlantic surf clam and ocean quahog fisheries (Atlantic Surf Clam and Ocean Quahog FMP); the Northeast multispecies fishery (NE Multispecies FMP); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); and the Atlantic bluefish fishery (Atlantic Bluefish FMP). These FMPs and the regulations in this part govern the conservation and management of the above named fisheries of the Northeastern United States.

(b) This part governs domestic fishing only. Foreign fishing is governed under subpart F of part 600 of this chapter.

[61 FR 34968, July 3, 1996, as amended at 61 FR 43424, Aug. 23, 1996; 62 FR 13299, Mar. 20, 1997]

#### § 648.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 600.10 of this chapter, the terms used in this part have the following meanings:

*Alewife* means *Alosa pseudoharengus*.

*American lobster* or *lobster* means *Homarus americanus*.

*American shad* means *Alosa sapidissima*.

*Atlantic butterfish* or *butterfish* means *Peprilus triacanthus*.

*Atlantic croaker* means *Micropogonias undulatus*.

*Atlantic mackerel* or *mackerel* means *Scomber scombrus*.

*Atlantic Mackerel, Squid, and Butterfish Monitoring Committee* means the committee made up of staff representatives of the MAFMC and the NEFMC, and the Northeast Regional Office and NEFSC of NMFS. The MAFMC Executive Director or a designee chairs the Committee.

*Atlantic salmon* means *Salmo salar*.

*Atlantic sea scallop* or *scallop* means *Placopecten magellanicus*, throughout its range.

*Beam trawl* means gear, consisting of a twine bag attached to a beam attached to a towing wire, designed so that the beam does not contact the bottom. The beam is constructed with sinkers or shoes on either side that support the beam above the bottom or any other modification so that the beam does not contact the bottom. The beam trawl is designed to slide along the bottom rather than dredge the bottom.

*Black sea bass* means *Centropristis striata*.

*Black Sea Bass Monitoring Committee* means a committee made up of staff representatives of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, the Northeast Regional Office of NMFS, the Northeast Fisheries Science Center, and Commission representatives. The Council Executive Director or his designee chairs the Committee.

*Black sea bass pot* or *black sea bass trap* means any such gear used in catching and retaining black sea bass.

*Blowfish (puffer)* means any species in the family Tetraodontidae.

*Bluefish* means *Pomatomus saltatrix*.

*Bluefish Committee* means the Bluefish FMP Review and Monitoring Committee of the MAFMC.

*Bonito* means *Sarda sarda*.

*Bushel (bu)* means a standard unit of volumetric measurement deemed to hold 1.88 ft<sup>3</sup> (53.24 L) of surf clams or ocean quahogs in the shell.

*Cage* means a container with a standard unit of volumetric measurement containing 60 ft<sup>3</sup> (1,700 L). The outside dimensions of a standard cage generally are 3 ft (91 cm) wide, 4 ft (122 cm) long, and 5 ft (152 cm) high.

*Chafing gear* or *cookies*, with respect to the scallop fishery, means steel, rubberized or other types of donut rings, disks, washers, twine, or other material attached to or between the steel rings of a sea scallop dredge.

*Charter* or *party boat* means any vessel that carries passengers for hire to engage in recreational fishing and, with respect to multispecies, that is not fishing under a DAS.

*Combination vessel* means a vessel that has fished in any one calendar year with scallop dredge gear and otter trawl gear during the period 1988 through 1990, and that is eligible for an allocation of individual DAS under the NE Multispecies FMP and has applied for or been issued a limited access scallop permit.

*Commercial fishing* or *fishing commercially* means fishing that is intended to, or results in, the barter, trade, transfer, or sale of fish.

*Commission* means the Atlantic States Marine Fisheries Commission.

*Conger eel* means *Conger oceanicus*.

*Cunner* means *Tautoglabrus adspersus*.

*Council* means the New England Fishery Management Council (NEFMC) for the Atlantic sea scallop and the NE multispecies fisheries, or the Mid-Atlantic Fishery Management Council (MAFMC) for the Atlantic mackerel, squid, and butterfish; the Atlantic surf clam and ocean quahog; the summer flounder, scup, and black sea bass fisheries; and the Atlantic bluefish fishery.

*Day(s)-at-Sea (DAS)*, with respect to the NE multispecies and scallop fisheries, except as described in § 648.82(k)(1)(v), means the 24-hour periods of time during which a fishing vessel is absent from port in which the vessel intends to fish for, possess or land, or fishes for, possesses, or lands regulated species or scallops.

*Dealer* means any person who receives, for a commercial purpose (other than solely for transport on land), from the owner or operator of a vessel issued a valid permit under this part, any species of fish, the harvest of which is managed by this part.

*Dealer code* means a confidential five-digit number assigned to each dealer required to submit purchases using the IVR system for the purpose of maintaining the integrity of the data reported through the IVR system.

*Dredge* or *dredge gear*, with respect to the scallop fishery, means gear consisting of a mouth frame attached to a holding bag constructed of metal rings, or any other modification to this design, that can be or is used in the harvest of scallops.

*Dredge bottom*, with respect to scallops, means the rings and links found

between the bail of the dredge and the club stick, which, when fishing, would be in contact with the sea bed. This includes the triangular shaped portions of the ring bag commonly known as “diamonds.”

*Dredge top*, with respect to the scallop fishery, means the mesh panel in the top of a dredge and immediately adjacent rings and links found between the bail of the dredge, the club stick, and the two side panels. The bail of the dredge is the rigid structure of the forward portion of the dredge that connects to the warp and holds the dredge open. The club stick is the rigid bar at the tail of the dredge bag that is attached to the rings.

*Dredge vessel*, with respect to the scallop fishery, means any fishing vessel that is equipped for fishing using dredge gear and that is capable of catching scallops.

*Exempted gear*, with respect to the NE multispecies fishery, means gear that is deemed to be not capable of catching NE multispecies and includes: Pelagic hook and line, pelagic longline, spears, rakes, diving gear, cast nets, tongs, harpoons, weirs, dipnets, stop nets, pound nets, pelagic gillnets, pots and traps, purse seines, shrimp trawls (with a properly configured grate as defined under this part), surf clam and ocean quahog dredges, and midwater trawls.

*Fishing trip or trip* means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

*Fishing year* means:

(1) For the scallop fishery, from March 1 through the last day of February of the following year.

(2) For the NE multispecies fishery, from May 1 through April 30 of the following year.

(3) For all other fisheries in this part, from January 1 through December 31.

*Flatfish gillnets* means gillnets that are either constructed with no floats on the float line, or that are constructed with floats on the float line and that have tie-down twine between the float line and the lead line not more than 48 inches (18.90 cm) in length and spaced not more than 15 feet (4.57 m) apart.

*FMP* means fishery management plan.

*Fourspot flounder* means *Paralichthys oblongus*.

*Gillnet gear capable of catching multispecies* means all gillnet gear except pelagic gillnet gear specified at § 648.81(f)(2)(ii) and pelagic gillnet gear that is designed to fish for and is used to fish for, or catch, tunas, swordfish and sharks.

*Gross registered tonnage* (GRT) means the gross registered tonnage specified on the USCG documentation for a vessel.

*Hagfish* means *Myxine glutinosa*.

*Handline or handline gear* means fishing gear that is released by hand and consists of one main line to which is attached no more than two leaders for a total of no more than three hooks. Handlines are retrieved only by hand, not by mechanical means.

*Harbor porpoise* means *Phocoena phocoena*.

*Harbor Porpoise Review Team (HPRT)* means a team of scientific and technical experts appointed by the NEFMC to review, analyze, and propose harbor porpoise take mitigation alternatives.

*Herring* means Atlantic herring, *Clupea harengus*, or blueback herring, *Alosa aestivalis*.

*Hickory shad* means *Alosa mediocris*.

*Hook gear* means fishing gear that is comprised of a hook or hooks attached to a line and includes, but is not limited to, longline, setline, jigs, troll line, rod and reel, and line trawl.

*Illex* means *Illex illecebrosus* (short-finned or summer squid).

*IVR system* means the Interactive Voice Response dealer reporting system established by the Regional Administrator for the purpose of monitoring dealer purchases.

*John Dory* means *Zenopsis conchifera*.

*Land* means to begin offloading fish, to offload fish, or to enter port with fish.

*Liner* means a piece of mesh or any other material rigged inside or outside the main or outer net or dredge that restricts the mesh or ring size or otherwise reduces escapement.

*Link*, with respect to the sea scallop fishery, means the material, usually made of a 3/8-inch (10-mm) or 7/16-inch (11-mm) diameter metal rod, that joins

two adjacent rings within the ring bag of a dredge.

*Little tunny* means *Euthynnus alleteratus*.

*Loligo* means *Loligo pealei* (long-finned or bone squid).

*Longhorn sculpin* means *Myoxocephalus octodecimspinosus*.

*Longline gear* means fishing gear that is or is designed to be set horizontally, either anchored, floating, or attached to a vessel, and that consists of a main or ground line with three or more gangions and hooks.

*Maine bushel* means a standard unit of volumetric measurement equal to 1.2445 cubic feet (35.24 L) of ocean quahogs in the shell.

*Maine mahogany quahog zone* means the area bounded on the east by the U.S.-Canada maritime boundary, on the south by a straight line at 43°50' N. latitude, and on the north and west by the shoreline of Maine.

*Menhaden* means Atlantic menhaden, *Brevoortia tyrannus*.

*Midwater trawl gear* means trawl gear that is designed to fish for, is capable of fishing for, or is being used to fish for pelagic species, no portion of which is designed to be or is operated in contact with the bottom at any time.

*Mobile gear* means trawls, beam trawls, and dredges that are designed to maneuver with that vessel.

*Monkfish or anglerfish* means *Lophius americanus*.

*Mullet* means any species in the family Mugilidae.

*Multispecies frames*, also known as multispecies racks, means the remains of the multispecies finfish after it has been filleted or processed, not including the fillet.

*Multispecies Monitoring Committee* means a team of scientific and technical staff appointed by the NEFMC to review, analyze, and recommend adjustments to the measurement measures. The team consists of staff from the NEFMC and the MAFMC, NMFS Northeast Region Office, NEFSC, the USCG, an industry representative, and no more than two representatives, appointed by the Commission, from affected states.

*NAFO* means Northwest Atlantic Fisheries Organization.

*NAFO Convention Area* means the waters of the Northwest Atlantic Ocean north of 35°00' N. lat. and west of a line extending due north from 35°00' N. lat. and 42°00' W. long. to 59°00' N. lat., thence due west to 44°00' W. long., and thence due north to the coast of Greenland and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10' N. lat.

*NAFO Regulatory Area* means the part of the NAFO Convention Area which lies beyond the 200-mile zone of the coastal states.

*NEFSC* means the Northeast Fisheries Science Center, NMFS.

*Net tonnage (NT)* means the net tonnage specified on the USCG documentation for a vessel.

*Non-exempt gillnet fishery* means a fishery which uses gillnet gear capable of catching multispecies.

*Non-exempt species* means species of fish not included under the GOM/GB and SNE Regulated Mesh Area exempted fisheries, as specified in § 648.80(a)(3), (a)(4), (a)(8) through (13), (b)(3)(i) and (ii), (b)(5) through (8), and (d), (e), (h), and (i).

*Nonregulated multispecies* means the subset of Northeast multispecies that includes silver hake, red hake and ocean pout.

*Northeast (NE) multispecies or multispecies* means the following species:

*American plaice*—*Hippoglossoides platessoides*.

*Atlantic cod*—*Gadus morhua*.

*Haddock*—*Melanogrammus aeglefinus*.

*Ocean Pout*—*Macrozoarces americanus*.

*Pollock*—*Pollachius virens*.

*Redfish*—*Sebastes fasciatus*.

*Red hake*—*Urophycis chuss*.

*Silver hake (whiting)*—*Merluccius bilinearis*.

*White hake*—*Urophycis tenuis*.

*Windowpane flounder*—*Scophthalmus aquosus*.

*Winter flounder*—*Pleuronectes americanus*.

*Witch flounder*—*Glyptocephalus cynoglossus*.

*Yellowtail flounder*—*Pleuronectes ferrugineus*.

*Northern shrimp* means *Pandalus borealis*.

*Ocean quahog* means the species *Arctica islandica*.

*Offload or offloading* means to begin to remove, to remove, to pass over the rail, or otherwise take away fish from any vessel. For purposes of the surf clam and ocean quahog fishery, it means to separate physically a cage from a vessel, such as by removing the

sling or wire used to remove the cage from the harvesting vessel.

*Operator* means the master, captain, or other individual on board a fishing vessel, who is in charge of that vessel's operations.

*Out of the multispecies fishery or DAS program* means the period of time during which a vessel is absent from port and is not fishing for regulated species under the NE multispecies DAS program.

*Pair trawl or pair trawling* means to tow a single net between two vessels.

*Pelagic hook or longline gear* means fishing gear that is not fixed, nor designed to be fixed, nor anchored to the bottom and that consists of monofilament main line (as opposed to a cable main line) to which gangions are attached.

*Personal use*, with respect to the surf clam or ocean quahog fishery, means harvest of surf clams or ocean quahogs for use as bait, for human consumption, or for other purposes (not including sale or barter) in amounts not to exceed 2 bu (106.48 L) per person per fishing trip.

*Person who receives bluefish for commercial purposes* means any person (excluding representatives of governmental agencies) engaged in the sale, barter, or trade of bluefish received from a fisherman, or one who transports bluefish from a fisherman.

*Postmark* means independently verifiable evidence of date of mailing, such as U.S. Postal Service postmark, United Parcel Service (U.P.S.) or other private carrier postmark, certified mail receipt, overnight mail receipt, or receipt received upon hand delivery to an authorized representative of NMFS.

*Prior to leaving port* means prior to departing from the last dock or mooring in port to engage in fishing, including the transport of fish to another port.

*Processor* means a person who receives surf clams or ocean quahogs for a commercial purpose and removes them from a cage.

*Purse seine gear* means an encircling net with floats on the top edge, weights and a purse line on the bottom edge, and associated gear, or any net designed to be, or capable of being, used in such fashion.

*Quota-managed species* means any species of finfish managed under this part by an annual or seasonal quota, by annual target or actual TAC, or by DAH limits.

*Recreational fishing* means fishing that is not intended to, nor results in the barter, trade, or sale of fish.

*Recreational fishing vessel*, with respect to the scup fishery, means any vessel from which no fishing other than recreational fishing is conducted. Charter and party boats are considered recreational fishing vessels for purposes of the scup minimum size requirement.

*Regional Administrator* means the Administrator, Northeast Region, NMFS, or a designee.

*Regulated fishery* means any fishery of the United States which is regulated under the Magnuson-Stevens Act.

*Regulated species* means the subset of NE multispecies that includes Atlantic cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, and white hake.

*Reporting month* means the period of time beginning at 0001 hours local time on the first day of each calendar month and ending at 2400 hours local time on the last day of each calendar month.

*Reporting week* means the period of time beginning at 0001 local time on Sunday and ending at 2400 hours local time the following Saturday.

*Re-rig or re-rigged* means physical alteration of the vessel or its gear in order to transform the vessel into one capable of fishing commercially for a species in the applicable fishery.

*Rigged hooks* means hooks that are baited, or only need to be baited, in order to be fished. Unsecured, unbaited hooks and gangions are not considered to be rigged.

*Rod and reel* means a hand-held (including rod holder) fishing rod with a manually operated reel attached.

*Roundfish gillnets* means gillnets that are constructed with floats on the float line and that have no tie-down twine between the float line and the lead line.

*Runaround gillnet or encircling gillnet* means a rectangular net placed upright in the water column in a circular fashion with an opening equal to or less than 1/4 the length of the net or with

an opening greater than 1/4 the length of the net, if the opening is obstructed in any fashion.

*Scallop dredge vessel* means any fishing vessel, other than a combination vessel, that uses or is equipped to use scallop dredge gear.

*Scup* means *Stenotomus chrysops*.

*Scup Monitoring Committee* means a committee made up of staff representative of the MAFMC, NEFMC, South Atlantic Fishery Management Council, the NMFS Northeast Regional Office, the NEFSC, and the Commission. The MAFMC Executive Director or a designee chairs the committee.

*Scup pot or trap* means a pot or trap used in catching and retaining scup.

*Sea Scallop Plan Development Team (PDT)* means a team of technical experts appointed by the NEFMC.

*Sea raven* means *Hemitripterus americanus*.

*Searobin* means any species of the family Triglidae.

*Shucking or to shuck* means opening or to open a scallop, surf clam, or ocean quahog and removing the meat or the adductor muscle from the shell.

*Shucking machine* means any mechanical device that automatically removes the meat or the adductor muscle from a scallop, surf clam, or ocean quahog shell.

*Sink gillnet or bottom-tending gillnet* means with respect to the NE multispecies fishery, any gillnet, anchored or otherwise, that is designed to be, or is fished on or near the bottom in the lower third of the water column.

*Skate* means any species of the family Rajidae.

*Smooth dogfish* means *Mustelis canis*.

*Sorting machine* means any mechanical device that automatically sorts whole scallops by shell height, size, or other physical characteristics.

*Spiny dogfish* means *Squalus acanthias*.

*Spot* means *Leiostomus xanthurus*.

*Square mesh*, with respect to the NE multispecies fishery, means mesh in which the horizontal bars of the mesh run perpendicular to the long axis of the net so when the net is placed under a strain the mesh remains open to a square-like shape. Square mesh can be formed by hanging diamond mesh "on the square," if the resulting mesh con-

forms with the above description of square mesh.

*Squid* means *Loligo pealei* or *Illex illecebrosus*.

*Standard tote* means a box typically constructed of plastic, designed to hold 100 lb (45.3 kg) of fish plus ice, and that has a liquid capacity of 70 L, or a volume of not more than 4,320 cubic in (2.5 cubic ft or 70.79 cubic cm).

*Substantially similar harvesting capacity* means the same or less GRT and vessel length.

*Summer flounder* means *Paralichthys dentatus*.

*Summer Flounder Monitoring Committee* means a committee made up of staff representatives of the MAFMC, NEFMC, and SAFMC, the NMFS Northeast Regional Office, the NEFSC, the Southeast Science Center, and the Commission. The MAFMC Executive Director or a designee chairs the committee.

*Surf clams* means Atlantic surf clams of the species *Spisula solidissima*.

*Swordfish* means *Xiphias gladius*.

*Target total allowable catch (TAC)* means the annual domestic harvest targets for regulated species.

*Tautog* (blackfish) means *Tautoga onitis*.

*Tied up to the dock*, with respect to NE multispecies, means to tie-up at a dock, on a mooring, or in a harbor.

*Tilefish* means *Lopholatilus chamaeleonticeps*.

*Total Length (TL)* means the straight-line distance from the tip of the snout to the end of the tail (caudal fin) while the fish is lying on its side.

*Transfer* means to begin to remove, to remove, to pass over the rail, or to otherwise take away fish from any vessel and move them to another vessel.

*Trawl* means gear consisting of a net that is towed, including but not limited to beam trawls, pair trawls, otter trawls, and Danish and Scottish seine gear.

*Trawl sweep* means the total length of the footrope on a trawl net that is directly attached to the webbing of a net.

*Under construction* means that the keel had been laid or the vessel was under written agreement for construction or the vessel was under written contract for purchase.

*Upon returning to port*, for purposes of the call-in notification system for the NE multispecies fishery, means the first point when a vessel ties up at a dock or mooring in a port at the end of a fishing trip.

*Vessel length* means the length specified on the USCG documentation for a vessel or on the state registration for a vessel not required to be documented under title 46 U.S.C., if the state length is verified by an authorized officer or NMFS official.

*Vessel Tracking System (VTS)* means a vessel tracking system as set forth in §648.9 and approved by NMFS for use by scallop and NE multispecies vessels, as required by this part.

*VTS unit* means a device installed on board a vessel used for vessel tracking and transmitting the vessel's position as required by this part.

*Weakfish* means *Cynoscion regalis*.

*Whiting* means *Merluccius bilinearis*.

[61 FR 34968, July 3, 1996, as amended at 61 FR 39910, July 31, 1996; 61 FR 43424, Aug. 23, 1996; 61 FR 49277, Sept. 19, 1996; 61 FR 56126, Oct. 31, 1996; 61 FR 58464, Nov. 15, 1996; 62 FR 2620, Jan. 17, 1997; 62 FR 9379, Mar. 3, 1997; 62 FR 10748, Mar. 10, 1997; 62 FR 13299, Mar. 20, 1997; 62 FR 14646, Mar. 27, 1997; 62 FR 15385, Apr. 1, 1997; 62 FR 49148, Sept. 19, 1997; 62 FR 51381, Oct. 1, 1997; 63 FR 11593, Mar. 10, 1998; 63 FR 27484, May 19, 1998; 63 FR 40377, July 29, 1998; 63 FR 52640, Oct. 1, 1998]

EFFECTIVE DATE NOTE: At 63 FR 52640, Oct. 1, 1998, §648.2 was amended by adding the definitions *Dealer code*, *IVR system*, and *Quota-managed species*, effective Nov. 1, 1998.

#### § 648.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 600.705.

(b) Nothing in these regulations supersedes more restrictive state management measures for any of the species referenced in §648.1 and, for Atlantic salmon, more restrictive local management measures.

#### § 648.4 Vessel and individual commercial permits.

(a) *Fishery specific permit information.*

(1) *NE multispecies vessels.* Except for vessels that have been issued a valid High Seas Fishing Compliance permit, have declared their intent to fish, and fish exclusively in the NAFO Regulatory Area as provided in §648.17, any vessel of the United States, including a

charter or party boat, must have been issued and have on board a valid multispecies permit to fish for, possess, or land multispecies finfish in or from the EEZ. Multispecies frames used as, or to be used as, bait on a vessel fishing exclusively with pot gear are deemed not to be multispecies finfish for purposes of this part provided that there is a receipt for the purchase of those frames on board the vessel.

(i) *Limited access multispecies permits—*  
(A) *Eligibility.* To be eligible to apply for a limited access multispecies permit, as specified in §648.82, in 1996 and thereafter, a vessel must have been issued a limited access multispecies permit for the preceding year, must be replacing a vessel that was issued a limited access multispecies permit for the preceding year, or must qualify for a 1996 limited access multispecies hook-gear permit under this paragraph (a)(1)(i). Vessels qualifying for 1996 limited access multispecies hook-gear permits are qualified only for that limited access permit category. A vessel is eligible for a 1996 limited access multispecies hook-gear permit, provided:

(1) The vessel was issued a 1995 open access multispecies hook-gear permit and the owner or operator of the vessel submitted to the Regional Administrator, no later than January 26, 1996, fishing log reports dated between June 1, 1994, and June 1, 1995, when fishing with hook gear under the open access hook-gear permit, documenting landings of at least 500 lb (226.8 kg) of NE multispecies finfish, or its equivalent in numbers of fish; or

(2) The vessel is replacing such a vessel.

(B) *Application/renewal restrictions.* Owners of vessels must apply for a limited access multispecies hook-gear permit before September 1, 1996, to receive an automatic mailing of an application to renew their permit in 1997 and to be assured that their permit application will be processed within 30 days. Vessel owners applying after December 31, 1996, will be ineligible to apply for an initial limited access multispecies hook-gear permit. To renew or apply for a limited access multispecies permit, a completed application must be received by the Regional Administrator by the first day of the fishing